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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,276	09/30/2003	Masahiro Nozaki	26E-003	1581

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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/673,276

Applicant(s)

NOZAKI, MASAHIRO

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 4 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-17 is/are pending in the application.
- 4a) Of the above claim(s) 4-7, 13 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8, 9, 11, 12 and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/31/06</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Applicant's election of Group III in the reply filed on July 14, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Accordingly, claims 4-7, 13 and 14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 14, 2005.

Drawings

The drawing correction filed January 31, 2006 has been approved.

Specification

The disclosure is objected to because recitations such as "moulding" on line 19 of page 16 should be changed to the customary U.S. spelling.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-3, 8, 9, 11, 12 and 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "a vehicle door" on line 2 of claim 1 render the claims indefinite because it is unclear if the door frame set forth on line 1 of claim 1 comprises part of the vehicle door or is in addition to the vehicle door. Recitations such as "a door frame" on line 2 of claim 3 render the claims indefinite because it is unclear if the applicant is referring to the door frame set forth above or is attempting to set forth another door frame in addition to the one set forth above. Recitations such as "an inner end edge of said door frame is seated in said depression" on line 27 of claim 3 render the claims indefinite because it is unclear how the inner end edge of the door frame is seated in itself. Recitations such as "an outer end edge" on line 3 of claim 8 render the claims indefinite because it is unclear if the applicant is referring to the outer end edge set forth above or is attempting to set forth another outer end edge in addition to the one set forth above. Recitations such as "one end edge" on lines 2-3 of claim 9 render the claims indefinite because it is unclear if the applicant is referring to the outer end edge set forth above or is attempting to set forth another element of the invention in addition to the outer end edge. Recitations such as "said outer end edge" on lines 1-2 of claim 11 render the claims indefinite because they lack antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1, 2, 8, 9, 11, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Villa et al. Villa et al. discloses a door seal structure in combination with a door frame 12 for sealing between a door opening portion (not numbered, but shown in figure 2) of a vehicle body (not numbered, but shown in figure 1) and a vehicle door 10, comprising an opening weather strip 19 adapted to be attached to the door opening portion, said opening weather strip including a tubular seal portion (not numbered, but shown in figure 2) which projects outwardly of the door opening portion, a glass run 17 for guiding a door glass 16 that is raised and lowered, said glass run being held in a glass run holding part (not numbered, but shown in figure 2) provided along an inner peripheral surface of the door frame, a protrusion (not numbered, but shown in figure 2) comprising the portion of the door frame extending generally downwardly and to the right lower corner as shown in the figure) in the door frame, wherein the protrusion protrudes inwardly of said glass run holding part since it extends inwardly of the glass run holding part, an inner peripheral end of said protrusion being joined to an inner side wall of said glass run holding part to define a flange (not numbered, but shown in figure 2), said protrusion including a protruding wall (not numbered, but comprising the part of the protrusion engaging the weather strip 19 as shown in figure 2) and an inside wall (not numbered, but shown in figure 2 spanning the distance between the protruding wall and the flange), said protruding wall being adapted to contact and press said tubular seal portion of said opening weather strip and said inside wall being adapted to face a vehicle compartment when the vehicle door is closed, said inside wall of said protrusion having a depression (not numbered, but shown in figure 2 where the inside wall

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transitions to meet the flange) that is formed immediately adjacent to said protruding wall so as to extend in a longitudinal direction of said protrusion, and a cover member (not numbered, but shown in figure 2 extending over the flange and extending into the depression) provided for covering said inside wall of said protrusion of the door frame, an outer end edge of said cover member covering said flange and being connected to said glass run and an inner end edge of said cover member being seated in said depression, wherein when the vehicle door is closed, said inside wall of said protrusion is substantially covered with said cover member such that said inner end edge of said cover member does not contact said tubular seal portion of said opening weatherstrip, the cover member includes a curved end section (not numbered, but comprising the section of the cover member that is curved and extends generally upwardly, as shown in figure 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Villa et al. as applied to claims 1, 2, 8, 9, 11, 15 and 16 above, and further in view of Petrelli. Petrelli discloses a door seal structure comprising a door weather strip 39 for

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abutting and sealing the door opening portion 24 when the vehicle door is closed, the door weather strip being held in an outer peripheral surface of the door frame 33.

It would have been obvious to one of ordinary skill in the art to provide Villa et al. with a door seal structure, as taught by Petrelli, to further increase the seal between the door frame and the door opening portion.

Response to Arguments

Applicant's arguments filed January 31, 2006 have been fully considered but they are not persuasive. With respect to the applicant's comments concerning Villa et al., the examiner respectfully disagrees. Villa et al., in figure 2, shows a protrusion comprising the portion of the door frame which extends from a ninety degree bend downwardly and generally parallel to the window glass 16 on the left hand/inner side of the window glass. The protrusion comprises 1) a protruding wall which is attached to the ninety degree bend and engages the opening weatherstrip 19, 2) an inside wall which extends at an angle outwardly toward the window glass 16, and 3) a flange wall which is engaged with the door glass run holding portion and forming the flange. The junction of the inside wall and the flange wall forms a depression in which the cover member rests. Therefore, Villa et al. discloses a depression in the protrusion. Additionally, Villa et al. need not solve the same problem presented by the applicant in order to anticipate the applicant's claimed invention. Since Villa et al. discloses the same claimed structure as set forth by the applicant, Villa et al. anticipates the applicant's claims.

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In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a long horizontal flourish extending to the right.

Gregory J. Strimbu
Primary Examiner
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April 12, 2006